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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,088

03/18/2004

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EXAMINER

NATNITHADHA, NAVIN

ART UNIT

PAPER NUMBER

3735

MAIL DATE

DELIVERY MODE

02/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/803,088	Applicant(s) KOSUDA ET AL.	
	Examiner NAVIN NATNITHITHADHA	Art Unit 3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 11, and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11 and 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Claims 1 and 11 have been amended. Claims 7-10, 12, and 21-23 have been cancelled. Claims 1-6, 11, and 13-20 are pending.

Response to Arguments

2. Applicant's arguments, see Remarks, pp. 8-9, filed 09 November 2007, with respect to the rejection of claims 1-6 and 11-20 under 35 U.S.C. 102(b) as being anticipated by Raymond et al, U.S. Patent No. 6,282,441 B1, have been fully considered, but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

Art Unit: 3735

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-6, 11, and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raymond et al, U.S. Patent No. 6,282,441 B1 ("Raymond"), in view of Odagiri et al, U.S. Patent No. 5,749,366 A ("Odagiri").

Claims 1-6, 11, and 13-20: Raymond teaches an information-gathering device ("health tracking system") 100 being configured to gather information relating to a pulse (see figs. 2, 2A, and 3, and col. 5) comprising:

- a sensor module ("multiparametric physiological monitor") 108 being configured to be mounted to a mounting area on a body ("chest"); and

- a supporter ("chest strap") 124 being configured to mount said sensor module 108;

- said sensor module 108 comprising:

- a first motion detector ("chest expansion sensor") 132, e.g. a displacement sensor ("tension sensing device," see col. 7, ll. 46-47), being configured to detect motion components generated along with changes in the shape of said mounting area, and to output a motion detection signal (see col. 6, ll. 6-58);

a second motion detector, e.g. acceleration sensor (“accelerometer”) 134, being configured to detect motion components generated along with body movement, and to output a second motion detection signal;

a pulse wave detector/sensor (“EKG electrodes”) 140 being configured to detect pulse wave components corresponding to a pulsating flow in said body, and to output a pulse wave detection signal (“EKG signal pulse,” see col. 15, ll. 54-67), wherein the motion detector 132 is adjacent to and on the same side of the mounting area with respect to the pulse wave detector 140 (see fig. 2);

a transmitter (“modem”) 110;

a power generation device (“batteries,” not labeled, see col. 5, ll. 18-19);

a processor (“monitor hardware”) 144.

Raymond does not teach “a removal processor being configured to remove said motion components from said pulse wave detection components” (claim 1) or “a removal processor being configured to remove motion components by using said second motion detection signal when said second motion detector detects said motion components, and to remove motion components by using said first motion detection signal when said second motion detector does not detect said motion components” (claim 11). However, a removal processor that removes motion components from pulse wave signals is well known in the art. For example, Odagiri teaches an information-gathering device being configured to gather information relating to a pulse (“a motion compensating pulse rate monitor with motion sensor”, see Abstract), comprising: a pulse wave detector (“pulse detecting means”) 106; a motion detector (“motion

Art Unit: 3735

detecting means”) 101; and a removal processor (“CPU”) 1104 configured to remove motion components from a pulse wave detection signal (see Abstract, col. 1, ll. 6-10, and col. 8, ll. 30-37). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Raymond’s processor 144 to remove motion components from a pulse wave detection signal as taught by Odagiri because “the user can obtain the pulse data continuously at predetermined time intervals without being conscious about the measuring environment”, as stated by Odagiri, col. 8, ll. 30-37.

Conclusion

4. Applicant's amendment (to Claim 1) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3735

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAVIN NATNITHITHADHA whose telephone number is (571)272-4732. The examiner can normally be reached on Monday-Friday, 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Marmor, II/
Supervisory Patent Examiner
Art Unit 3735

/N. N./
Patent Examiner, Art Unit 3735
02/04/2008